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**ARBITRATION OF OUTSTANDING PECUNIARY CLAIMS
BETWEEN GREAT BRITAIN AND THE
UNITED STATES OF AMERICA**

**THE SCHOONER JESSIE
THE SCHOONER THOMAS F. BAYARD
THE SCHOONER PESCAWHA**

**REPLY OF HIS BRITANNIC MAJESTY'S
GOVERNMENT TO THE ANSWER
OF THE UNITED STATES
OF AMERICA**

**VICTORIA, B. C.
THE COLONIST PRESS
1914**

*Scott Bess
Victoria B.C.*

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**THE SCHOONER JESSIE
THE SCHOONER THOMAS F. BAYARD
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**IN ANSWER TO THE DEMAND
OF HIS BRITANNIC MAJESTY'S
GOVERNMENT TO THE ANSWER
OF THE UNITED STATES
OF AMERICA**

**VICTORIA, B. C.
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O. A. Davis
#2.9000 11-1988

Reply to Answer of United States of America

In reply to the answer of the United States of America to the claims of His Britannic Majesty's Government on behalf of the Schooners *Jessie*, *Thomas F. Bayard* and *Pescawha*, the allegations set out in the said claims are repeated, and it is submitted:

That the answer of the United States is merely a traverse of the allegations made in the memorial of His Britannic Majesty's Government.

That the statement that the masters of the vessels in question intended to proceed to the Russian Islands for sealing in the month of July, is erroneous. The fact is that the said vessels were, as already alleged, especially fitted out and manned for sea otter hunting, the owners being induced to do so on account of the operations of the two preceding years and the growing success of Japanese hunters on the same and neighbouring hunting grounds.

In this connection, attention is directed to the returns of sea otter captured, killed or taken by Japanese vessels, according to statistics taken from the official records at Tokio, for the years under-mentioned:

Year	Number of Skins
1906	69
1907	86
1908	82
1909	143
1910	146
1911	112
1912	401

The answer of the United States contains an accusation of fraudulent misrepresentation and concealment of material facts. This is denied, as the sources of information on which the facts stated in the memorial were based, were equally open to the United States. Further, it is denied that the masters made any such statement of their intention as alleged in the answer. On the contrary, the fact is, as indicated on oath by the masters, that the vessels were ordered to remain on the otter hunting grounds, where they were molested by the United States Revenue Cutter *Bear*, until the opening of the sealing season in Behring Sea, or longer if the results of the otter hunting proved favourable. This decision was arrived at on account of the results of the two previous years' hunting by the *Casco*, *Vera*,

Jessie and Bayard, and also by the operations of Japanese sealers on our coast. The Vera, which took 20 skins in 1907, was owned or chartered by some of the owners of the Jessie, and it was the success of the Vera which prompted or induced the owners of the Jessie to pay especial attention to otter hunting after 1907.

It is admitted that the vessels proceeded to the Russian Islands instead of returning home after the unauthorized and illegal interference with their operations. The masters were placed *in terrorem* by the threat that if found in the vicinity they then were, their vessels would be seized. Therefore, they made the best of the circumstances and crossed the Pacific Ocean. The fact that they may have obtained seal skins out of that venture is no answer to the illegal interference which the masters suffered, and the threats made to them.

It is further submitted, in support of the claim preferred on behalf of the vessels in question herein, that the facts and figures brought forward in the answer are justification enough in themselves of the claim made.

The memorial frankly puts forward the earnings, expenses and profits of the vessels, and it is again submitted that whether the vessels made a profit for the season is no argument in favour of or justification for their being driven away from following a lawful occupation and forced to the alternative of returning to port and lying idle and unprofitable, or taking the risk of crossing the Pacific Ocean to hunt on a foreign shore and in foreign waters.

To put a hypothetical case: Supposing all three vessels, having been interfered with and threatened with seizure if they remained, had been lost with all hands in crossing the Pacific Ocean, would not such a result be reasonably attributable to the unlawful action of the United States officer, acting presumably and to all appearance with the authority of his Government?

Attention is directed to the special agreement in the ship's articles of the three vessels for 1909, dealing with the price to be paid by the owners to the hunters for sea otter skins, as shewing the intentions of the owners in the premises.

His Majesty's Government, therefore, repeats and presses the allegations and claims in the memorial, and denies those in the answer of the United States of America, save insofar as the same confirm or agree with or support those set forth in the memorial.

ANNEX No. 14.

CANADA:
PROVINCE OF BRITISH COLUMBIA,
VICTORIA.

In the matter of the illegal interference with and prevention of the British Schooners Jessie, Thomas F. Bayard and Pescawha by the United States Revenue Cutter Bear from pursuing her lawful occupation on the high seas.

I, F. W. Adams, of the City of Victoria, in the Province of British Columbia, merchant, do solemnly declare:

1. That I am the Treasurer of the Victoria Sealing Company, Limited, a body corporate according to the laws of the Province of British Columbia.

2. That the said Company has at present a claim pending before the Commissioner appointed to hear and take evidence upon the claims of the pelagic sealers for compensation on account of the stoppage of pelagic sealing in the North Pacific Ocean and Behring Sea.

3. That as such Treasurer, and in support of the claim of the said Company before said Commissioner, I caused to be procured from the official records in Tokio, Japan, the statistics or particulars set forth in the table hereto annexed and marked "A."

4. That I believe the said statistics or particulars to be true and accurate, but I am now engaged in correspondence with the Commissioner having an official certificate verifying the said statistics.

5. That I know, from information obtained by me in my capacity as Treasurer of the said Company, that when the Japanese sealers ascertained that British and American vessels were interfered with in hunting, the said Japanese sealers patrolled and hunted the sealing grounds unhampered by any rules, regulations or prohibitions.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at the City of
Victoria, British Columbia, this
25th day of February, 1914.

F. W. ADAMS.

OSCAR C. BASS,
A Commissioner for taking affidavits
within British Columbia.

OFFICIAL INFORMATION TAKEN FROM THE JAPANESE GOVERNMENT RECORDS.

RECAPITULATION—Giving the number of vessels employed and the catch of Fur Seals and Sea Otters taken by the Japanese vessels since 1889, and shewing particularly the increase of vessels and increased catch taken by them after 1893, when the regulations and restrictions were enforced against the Canadian Sealer according to the Paris Tribunal.

NUMBER OF FUR SEALS SHOT BY JAPANESE DURING SEVEN YEARS FROM 1889 TO 1895.

Year	Number of Vessels	Number of Fur Seals Shot
1889	2	36
1890	2	379
1891	2	44
1892	2	3
1893	2	8
1894	3	47
1895	5	2,724

ON THE JAPAN COAST, B.C. COAST AND BEHRING SEA

	Vessels	Crew	Sea Otters	Fur Seals
1896	9	214	22	3,319
1897	14	320	26	4,616
1898	16	352	21	4,757
1899	12	270	16	{ 6,518 7,533*
1900	15	362	15	{ 677† 65‡
1901	19	452	12	7,045
1902	21	433	8	7,454
1903	21	516	3	10,937
1904	30	765	68	15,698
1905	31	775	153	{ 10,335 83‡
1906	29 .....	.....	69	10,476
1907	36 .....	.....	86	10,422
1908	37 .....	.....	82	13,373
1909	31 .....	.....	143	9,816
1910	32 .....	.....	146	7,489
1911	41 .....	.....	112	11,992
1912	45 .....	.....	401	29,297
			1,383	171,902

*Fur Seals. †Sea Horses. ‡Common (Hair) Seals.

171,902 skins, comprised of Hair Seals, Sea Horses and Fur Seal skins.

This is the exhibit marked "A," referred to in the declaration of F. W. Adams, taken before me the 25th day of February, 1914.

OSCAR C. BASS,
A Commissioner for taking affidavits
within British Columbia.

ANNEX No. 15.

CANADA:
PROVINCE OF BRITISH COLUMBIA,
VICTORIA.

In the matter of the illegal interference with and prevention of the British Schooner Pescawha by the United States Revenue Cutter Bear from pursuing her lawful occupation on the high seas.

I, William Alfred Bawden, of the City of Victoria, in the Province of British Columbia, chartered accountant, do solemnly declare:

1. I have examined such books of account as appear to have been kept by the late Joseph W. Peppett, owner of the British Schooner Pescawha.

2. The said books are almost wholly confined to entries of payments to crew and hunters in the way of wages, bonuses and supplies, and I have extracted to the best of my ability a statement shewing said payments, but I could not state with certainty that said payments constitute the entire expenses of the vessel. The said statement is hereto annexed and marked "A."

3. The said books of account shew no entries of receipts or revenue.

4. Attached hereto and marked "B" are the sales accounts between the said Joseph W. Peppett and C. M. Lampson & Company of seal skins for the year 1908.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at the City of
Victoria, British Columbia, this
25th day of February, 1914.

W. A. BAWDEN.

OSCAR C. BASS,
A Commissioner for taking affidavits
within British Columbia.

SCHOONER "PESCAWHA"

Statement of Income and Expenditure for the Year Ending
31st Dec., 1909.

To discount and charges on seal skins in London as per account sales of C. W. Lampson & Co.	\$ 1,932.05	By proceeds of sale of 875 seal skins, as per account sales of C. W. Lampson & Co., of London, England	\$25,756.27
To wages of crew...	10,141.09	By proceeds of sale of 2 sea otter skins	
To supplies for vessel	2,996.62	(See memorandum below).	
To balance, being profit for the year	10,686.51		
	<hr/>		<hr/>
	\$25,756.27		\$25,756.27

MEMO.—No figures in records to shew proceeds of sale of sea otter skins.

This is the exhibit marked "A," referred to in the declaration of W. A. Bawden, taken before me the 25th day of February, 1914.

OSCAR C. BASS,
A Commissioner for taking affidavits
within British Columbia.

64 Queen Street, London, E.C., 1st Jan., 1909.

ACCOUNT SALE OF SALTED SEALSKINS RECEIVED ON CONSIGNMENT
FOR ACCOUNT OF CAPTAIN J. W. PEPPETT, VICTORIA, B.C.

	Lot Skins			£	s.	d.	£	s.	d.
J.W.P.	259	109	Mddgs. &						
			Sms, &c.	158/-	861	2	0		
	260	95	Large pups	130/-	617	10	0		
	261	25	Small pups	110/-	137	10	0		
Majestic	262	52	Mddgs. &						
			Sms, &c.,						
			cut	130/-	338	0	0		
	263	71	Large pups	102/-	362	2	0		
Ck 1/7	264	69	Mddgs. &						
			Sms., &c.,						
			low	86/-	296	14	0		
pt.	338	4	Wigs, &c.	82/-	17	4	0		
	376	9	Faulty . .	88/-	39	12	0		
		5	Dressing						
			ex lot 260						
		1	short						
	440				2,669	14	0		
			Discount, 2½%		66	14	10		
								2,602	19 2
	7		Casks	2/1	14	7			
			Salt		2	0			
								16	7
								2,603	15 9
			CHARGES						
			Thro freight		27	9	4		
			Policy stamp . . .		1	5			
			Commission, 4% . .		104	3	0		
								131	13 9
			Net proceeds, Cash, 31st Dec.						
			1909		£2,472	2	0		

E. & O.E.

C. M. LAMPSON & Co.

10 **REPLY TO ANSWER OF UNITED STATES OF AMERICA:**

64 Queen Street, London, E.C., 1st Jan., 1910.

**ACCOUNT SALE OF SALTED SEALSKINS RECEIVED ON CONSIGNMENT
FOR ACCOUNT OF CAPTAIN J. W. PEPPETT, VICTORIA, B.C.**

	Lot	Skine		£	s.	d.	£	s.	d.
J.W.P.	206	82	Mddgs., &c.	136/-	557	12	0		
	207	75	Large pups	146/-	547	10	0		
	208	55	Mddgs. pups	122/-	335	10	0		
Montrose	209	102	Small						
			pups, &c.	110/-	561	0	0		
	210	32	Mddgs. & Sms., &c.						
			cut	116/-	185	12	0		
Ck 1/7	211	52	Large pups,						
			cut	108/-	280	16	0		
	212	38	Small pups,						
			cut	74/-	140	12	0		
pt. 376	2		Faulty ..	88/-	8	16	0		
	438				2,617	8	0		
			Discount, 2½% ..		65	8	8		
								2,551	10 4
	7		Casks		14	7			
			Salt		2	0			
								16	7
									2,552 15 11
			CHARGES						
			Thro freight	30	15	1			
			Commission, 4% .	102	2	3			
								132	17 4
			Net proceeds, Cash, 31st Dec., 1909					£2,419	18 7

E. & O.E.

C. M. LAMPSON & Co.

SCHOONERS JESSIE, THOMAS F. BAYARD AND PISCAWHA. 11

Captain J. W. Peppett,

In a/c with C. M. Lampson & Co.

Interest to 31st December, 1909.

1909.

		£	s.	d.	£	s.	d.
Dec. 31	By Net Proceeds Sales	2,419	18	7			
		2,472	2	0			
					4,892	0	7
June 7	To your draft at sight	1,340	4	9			
	To interest, 207 days		37	19			
Nov. 8	To your draft at sight	1,365	0	9			
	To interest, 53 days		9	18			
					2,753	3	0
	Cash paid Bank of B.N. America				22,138	17	7

E. & O.E.

London, 1st Jan., 1910.

C. M. LAMPSON & Co.

This is the exhibit marked "B," referred to in the declaration of W. A. Bawden, taken before me the 25th day of February, 1914.

OSCAR C. BASS,
A Commissioner for taking affidavits
within British Columbia.

ANNEX No. 16.

CANADA:
PROVINCE OF BRITISH COLUMBIA,
VANCOUVER.

In the matter of the illegal interference with and prevention of the British Schooner Thomas F. Bayard by the United States Revenue Cutter Bear from pursuing her lawful occupation on the high seas.

I, Hans Blakstad, presently of the City of Vancouver, in the Province of British Columbia, master mariner, do solemnly declare:

1. I am the Hans Blakstad referred to in the memorial submitted in the above claim as master of the British Schooner Thomas F. Bayard.

2. I have read what purports to be a report of Captain W. V. E. Jacobs, U.S.R.C.S., printed at page 11 of the answer of the

12 **REPLY TO ANSWER OF UNITED STATES OF AMERICA:**

United States of America to the memorial of His Britannic Majesty herein, and I deny the statement in the said report on said page 11. What I doubtless did say was that as we had been rendered powerless to proceed with our otter hunting, the best thing we could do was to cross to the Commander Islands until the sealing season opened in Behring Sea.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at the City of
Vancouver, British Columbia, }
this day of February, }
1914.

A Commissioner for taking affidavits
within British Columbia.

. ANNEX No. 17.

CANADA:
PROVINCE OF BRITISH COLUMBIA,
VANCOUVER.

} In the matter of the illegal
interference with and preven-
tion of the British Schooner
Pescawha by the United
States Revenue Cutter Bear
from pursuing her lawful
occupation on the high seas.

I, Berton Miller Balcom, presently of the City of Vancouver, in the Province of British Columbia, master mariner, do solemnly declare:

1. I am the Berton Miller Balcom referred to in the memorial submitted in the above claim as master of the British Schooner Pescawha.

2. I have read what purports to be a report of Captain W. V. E. Jacobs, U.S.R.C.S., printed at page 11 of the answer of the United States of America to the memorial of His Britannic Majesty herein, and I deny the statement in the said report on said page 11. What I doubtless did say was that as we had been rendered powerless to proceed with our otter hunting, the best thing we could do was to cross to the Commander Islands until the sealing season opened in Behring Sea.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at the City of
Vancouver, British Columbia, }
this day of February, }
1914.

A Commissioner for taking affidavits
within British Columbia.

ANNEX No. 18.

CANADA:
PROVINCE OF BRITISH COLUMBIA,
VICTORIA.

In the matter of the illegal interference with and prevention of the British Schooners Jessie, Thomas F. Bayard Pescawha by the United States Revenue Cutter Bear from pursuing their lawful occupation on the high seas.

I, Victor Jakobson, of the City of Victoria, in the Province of British Columbia, master mariner, do solemnly declare:

1. That I am the owner and master of the British Schooner Eva Marie, registered at the Port of Victoria, British Columbia.

2. That the said schooner is the same vessel as is referred to in the answer of the United States of America to the memorial of His Britannic Majesty's Government in support of the claims of the owners of the British Schooners Jessie, Thomas F. Bayard and Pescawha for compensation for illegal interference with and prevention from pursuing their lawful occupation on the high seas.

3. That my said vessel was also equipped and manned for hunting sea otter in the same way as the said Schooners Jessie, Thomas F. Bayard and Pescawha, and I hunted in company with them until the evening of the day before they were molested by the United States Revenue Officers of the Bear as alleged, when, having caught sight of the United States Revenue Cutter, I decided to leave that vicinity and accordingly put out to sea.

4. My decision to leave was not founded on any idea that I had no right to be where I was, or that I was breaking any law, rule or regulation, international or local, in being there, but with the

knowledge and recollection of the experience which other owners of vessels have had in asserting their legal rights in similar circumstances in the past, considered it would not be advisable to jeopardise my vessel and run the risk of losing my entire season's hunting by remaining and asserting my absolute right to be where I then was.

5. I say then that the only reason why the Revenue Cutter Bear's officers did not board my vessel was because they failed to see me before I left.

6. My Indian hunters reported varying numbers of otter in sight at the time, but for the reasons hereinbefore stated, I deemed it not advisable to continue hunting for them.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at the City of
Victoria, British Columbia, this
28th day of February, 1914. }

VICTOR JACKOBSON.

OSCAR C. BASS,
A Commissioner for taking affidavits
within British Columbia.

